

Remarks

Upon entry of the foregoing amendment, claims 1-30 are pending in the application, with claim 1 being the independent claim. Claim 1 is sought to be amended. The amendments to the claims place them in better form for consideration. These changes are believed to introduce no new matter, and place the application in form for allowance or better form for appeal. Entry of the amendments is respectfully requested.

Rejections under 35 U.S.C. 101

The Examiner rejected claims 1-30 under 35 U.S.C. § 101 because the claims are allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

In accordance with the Examiner's suggestion, Applicants have amended the claim 1 to recite "isolated polypeptide." Therefore the rejection under 35 U.S.C. § 112 is rendered moot. Applicants respectfully request the withdrawal of this rejection.

Rejections under 35 U.S.C. 102

The Examiner rejected claims 1-30 under 35 U.S.C. § 102(b), as allegedly anticipated by Binz *et al.*, *Eur. J. Biochem*, 189:73-78 (1990). Applicants respectfully traverse this rejection.

The Examiner stated:

Thus although the sequence recited in Binz et al. is a full length BoNT/A holotoxin. The limitations of the claim allow for the full length molecule, because the claim is drawn to a fragment or variant thereof, i.e., the full length molecule is a "variant" of the claimed molecule which lacks a functional C-terminal.

(Office Action, page 5).

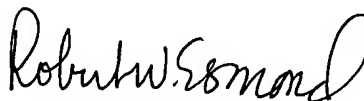
Applicants have amended claim 1 to recite "wherein said variant lacks a functional C-terminal part of a clostridial neurotoxin heavy chain designated H_C, thereby rendering the variant incapable of binding to cell surface receptors that are the natural cell surface receptors to which native clostridial neurotoxin binds." The amended claims are not anticipated by Binz *et al.* because the sequence recited in Binz *et al.* is full length BoNT/A holotoxin which comprises a functional C-terminal part of a clostridial neurotoxin heavy chain designated H_C. Therefore Applicants respectfully submit that the rejection under 35 U.S.C.102 has been obviated, and should be withdrawn.

Conclusion

Prompt and favorable consideration of this Amendment and Reply is respectfully requested. Applicants believe the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "Robert W. Esmond". The signature is fluid and cursive, with the first name "Robert" and last name "Esmond" clearly distinguishable.

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